

EXHIBIT “F”

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JEANNETTE MILLER,

Plaintiff,

vs.

MAUI OCEAN ACTIVITIES, INC.,

("MOA"), THEODORE C. KING,

BETH D. KING, In Personam and

MOA VESSEL, In Rem,

Defendants.

VIDEOTAPED DEPOSITION OF JEFFREY BRIAN WATSON,

Taken on behalf of Defendants Maui Ocean Activities, Inc.

("MOA"), Theodore C. King, Beth D. King, and MOA Vessel,

at 75-170 Hualalai Road, Suite D-212, Kailua-Kona, Hawaii

96740 commencing at 2:27 p.m., on June 27, 2006, pursuant

to Notice.

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BEFORE: SHIRLEY L. KEYS, RPR, CM, CSR 383
Notary Public, State of Hawaii

APPEARANCES:

For Plaintiff HOWARD G. MCPHERSON, ESQ.
Jeannette Miller: 600 Davies Pacific Center
841 Bishop Street
Honolulu, Hawaii 96813

For Defendants JOHN O'KANE, JR., ESQ.
Maui Ocean Frame Formby & O'Kane
Activities, Inc. Four Waterfront Plaza, Suite 575
("MOA"), Theodore 500 Ala Moana Boulevard
C. King, Beth D. Honolulu, Hawaii 96813
King, and MOA
Vessel:

The Video ROBERT WHITMAN, ESQ.
Specialist: Certified Legal Video Services
1111 Bishop Street, Suite 500
Honolulu, Hawaii 96813

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I N D E X

EXAMINATION BY:	PAGE
Mr. O'Kane	4, 22
Mr. McPherson	17

EXHIBITS FOR IDENTIFICATION	PAGE
(none)	

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(Disclosure presented to counsel.)

THE VIDEO SPECIALIST: This is the
deposition of Jeffrey Watson in the matter of Jeannette
Miller versus Maui Ocean Activities, Inc., et al. We are
located at the offices of Ralph Rosenberg Court Reporters
in Kailua-Kona, on the island of Hawaii, State of Hawaii.
My name is Robert Whitman, certified legal video
specialist. Will counsel please state their names?

MR. MCPHERSON: Howard McPherson for
plaintiff Jeannette Miller.

MR. O'KANE: And John O'Kane for MOA
and the -- the Kings and other defendants.

THE VIDEO SPECIALIST: Today is June 27
in the year 2006 and we are on the record at 2:27 p.m.
Would the court reporter please swear in the witness?

JEFFREY BRIAN WATSON,
called as a witness at the instance of Defendants Maui
Ocean Activities, Inc. ("MOA"), Theodore C. King, Beth
D. King, and Moa Vessel, being first duly sworn to tell
the truth, the whole truth and nothing but the truth, was
examined and deposed as follows:

E X A M I N A T I O N

BY MR. O'KANE:

Q. Good afternoon, Captain Watson. I'm John

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O'Kane. As I said earlier, I represent Maui Ocean
Activities and Aloha Jet Skis, which I believe is a
subsidiary of MOA, and we're -- we're here to get some
testimony from you regarding your knowledge of Miss
Jeannette Miller, who was injured while working for Aloha
Jet Skis in -- in August of 2003. Do you call -- recall
Miss Miller?

A. Yes.

Q. Can you give me your full name just for the
record?

A. Jeffrey Brian Watson.

Q. And what's your current address?

A. 75-5812 Melelina Street, M-E-L --

M-E-L-E-L-I-N-A.

Q. How -- how long have you lived in Kona?

A. A little over 13 years.

Q. Have you had your deposition taken before?

A. Yes.

Q. How many times?

A. Once.

Q. And what were the purpose of that?

A. A lawsuit with an injured diver against
Atlantis Submarines on Oahu.

Q. What was the name of the case, do you remember
that?

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1 A. Erin Bratt versus Atlantis Submarines.
 2 Q. I'm not familiar with that. Mr. McPherson may
 3 be. Let me just give you, since you've had your
 4 deposition taken before, I think you understand the
 5 process. Let me just give you a summary of -- of what
 6 goes on so you'll have a feel for it. The court reporter
 7 over here takes down every word we say, and she gets
 8 everything right, so in another couple of weeks or so
 9 you'll get a book back that will have the questions and
 10 the answers, and you'll get an opportunity to look at it
 11 and given a number of days to turn around and correct it
 12 one way or the other. And you have every right to
 13 correct either minor errors or -- or substantive errors.
 14 Just keep in mind that any errors you may correct can now
 15 give either side the opportunity to turn around at some
 16 other proceeding or so, make the point that you said yes,
 17 the light was blue on this day, and now you say it's red
 18 and have an opportunity to use that to what they call
 19 impeach you. You're under oath, as you know, it's the
 20 same as if you were in front of a judge or a jury.
 21 Answer a question not with uh huh or yes, or a head nod,
 22 you got to answer yes or no for the simple fact that
 23 while we're getting this on video, the court reporter is
 24 also going to put it in hard copy and it's very difficult
 25 to -- for her to get a uh huh, ut uh. You understand

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1 that?
 2 A. Yes.
 3 Q. Okay. If you don't understand a question,
 4 please say -- either one of us, say hey, stop, I don't
 5 understand it, reword it. If -- if -- if you do
 6 understand it and answer it and if you answer the
 7 question, we'll assume you have understood it, okay?
 8 A. Yes.
 9 Q. There may be objections here during the course.
 10 If there is an objection, listen to it and -- and just
 11 wait. Don't testify any more till the objection's on the
 12 record, and then most likely you're going to have to
 13 answer the question anyway.
 14 A. Okay.
 15 Q. Anything that -- you -- you have health
 16 problems or lack of sleep or drugs or anything that might
 17 keep you from giving your best answers today?
 18 A. No.
 19 Q. Let's get a little background, if we can, on
 20 you, captain. What's your education?
 21 A. Regular high school, a couple years of college
 22 and then a lot of Navy schools, electronics, electronics.
 23 Q. Are you Navy?
 24 A. Ex-Navy.
 25 Q. Ex-Navy?

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1 A. Yes.
 2 Q. Where -- where did -- where did you get your
 3 high school education?
 4 A. South Carolina. Lancaster, South Carolina.
 5 Q. And how about college, what -- what college did
 6 you go?
 7 A. Winthrop College, that's in South Carolina,
 8 also. Now it's Winthrop University, they've grown so --
 9 Q. How long -- how long did you go there?
 10 A. Two years.
 11 Q. Did you have a course of study there?
 12 A. Just general.
 13 Q. When did you join the Navy?
 14 A. 1981.
 15 Q. How long did you spend in the Navy?
 16 A. Six years.
 17 Q. What was your rate? What did you do?
 18 A. Electronics technician on a submarine.
 19 Q. What sub?
 20 A. The USS Tunny stationed in Pearl Harbor.
 21 Q. When -- when were you there? When --
 22 A. Excuse me?
 23 Q. When were you there at --
 24 A. '83 to '87.
 25 Q. And you have a US Coast Guard license?

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1 A. Yes.
 2 Q. How long have you had your license?
 3 A. In July will be 15 years.
 4 Q. What -- what's the tonnage on your license?
 5 A. 50 tons.
 6 Q. 50 ton?
 7 A. Uh huh.
 8 Q. What's the endorsements on it?
 9 A. The Atlantis sub -- well, besides just near
 10 coastal, 50 ton masters, and let's see, what do you call
 11 it, the Atlantis 4, the Atlantis 7, the Atlantis 9 and
 12 the Atlantis 10 on Oahu and here. That's -- yeah.
 13 Q. So you -- you can operate the subs?
 14 A. Yes.
 15 Q. Are -- are you still working for Atlantis over
 16 here at all?
 17 A. No.
 18 Q. What's your present occupation?
 19 A. I'm a tender boat driver for Body Glove
 20 Cruises, so I drive the shuttles back and forth from the
 21 cruise ships here every Monday, Wednesday -- or excuse
 22 me, every Wednesday, Thursday and Friday.
 23 Q. And if I'm --
 24 A. And then -- then I fish when I'm not doing
 25 that, or drive dive boats.

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1 Q. If -- if I'm correct, the -- the tender drivers
2 are for Norwegian Cruise Lines, is that right?

3 A. Yeah. Yes.

4 Q. Okay. I -- I discussed earlier that we're here
5 for the accident that occurred to Jeannette Miller on
6 August the 26th of 2003. And you mentioned earlier you
7 remembered Jeannette Miller. Can you describe her for
8 me?

9 A. She was a blonde girl maybe about five three,
10 five four, had blonde hair, she was just a little bit
11 heavy set. Her hair came to about shoulder length. And
12 she was just a nice girl and I worked with her maybe
13 three or four days, as I recall.

14 Q. Okay. When did you start work for Aloha Jet
15 Ski?

16 A. I think March 2003.

17 Q. And how long did you work for them?

18 A. Till about March 2004.

19 Q. Why'd you leave?

20 A. I got a better job.

21 Q. And what capacity did you work for Aloha Jet
22 Ski?

23 A. I was a captain. And I was a captain driving
24 the shuttle boat back and forth from the pier to the
25 platform.

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1 Q. And you mentioned you worked three or four days
2 with Jeannette Miller?

3 A. Yes. I think I used to work with her one day a
4 week for three or four weeks in a row, as I recall.

5 Q. Just to get off track here a little bit, you
6 know, part of your job as a captain for the shuttle
7 vessel was to launch it at -- at the harbor, is that
8 correct?

9 A. Yeah. Well, at the pier, yeah.

10 Q. At the pier.

11 A. Yes.

12 Q. Yes. And did you do that on a number of
13 occasions?

14 A. Yes. Every day.

15 Q. Was -- was that a one man or a two man job?

16 A. It's a lot easier with two people. Yes.

17 Q. Did you have any problems with the algae
18 growing on that pier, on that launch pad?

19 A. I -- I saw it and I just tried to be careful
20 around it. That's all. Yes. I was usually -- I was
21 either in the truck or in the boat, so I didn't have to
22 like walk on the pier. I was -- it was like before we
23 went down the ramp we put somebody in the boat, unhooked
24 the boat so all we had to do was back the truck in, start --
25 start the boat up and drive away and then you either

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1 stayed in the truck or stayed in the boat, you didn't
2 have to walk on the ramp to launch the boat.

3 Q. Well, I -- I think you're aware that Miss --
4 Miss Miller was injured when she fell on that algae ramp?

5 A. That's what I heard.

6 Q. And didn't you just tell me that there's
7 another individual that was injured out there recently?

8 A. Well, about the same time as her injury. But
9 you know, about three years ago. His name is Dan, I
10 don't know his last name, but he's the owner of Land and
11 Sea Welding here in town.

12 Q. Are you aware of any complaints that were made
13 to the harbor master or the maintenance people regarding
14 that ramp?

15 A. No.

16 Q. What was the job title of Jeannette Miller, do
17 you know?

18 A. I -- I don't know. I -- I have no idea.

19 Q. If -- if I used the term booth attendant, is
20 that -- does that refresh your memory?

21 A. No. I mean that makes sense, but I mean we
22 didn't really have a booth. She sat in the back of the
23 truck, and she did --

24 Q. What were her job responsibilities, as far as
25 you know?

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1 A. Just like to greet people, to take
2 reservations, to get the people to fill out the
3 disclaimer or -- and before I carried them out, before I
4 got them on the boat and carried them out to the ramp. I
5 mean to the platform.

6 Q. Did -- when you were working with Miss Miller,
7 did she ever assist your passengers on and off the
8 vessel?

9 A. I don't recall. She -- she may have, but I
10 just don't recall.

11 Q. Did -- did she ever assist you more on board
12 the shuttle -- shuttle vessel when you'd come in and went
13 out?

14 A. I don't recall. Usually she would meet me with
15 a guest and their -- their forms. And, you know, she
16 would hand me forms. We had -- we had to fill out the
17 forms before we even let them on any of our vessels, and
18 she may or may not have helped the -- the guests onto the --
19 onto the boats. I mean she was nice enough and she was
20 helpful enough that maybe she did. I just don't recall.

21 Q. Did -- did she ever work on the shuttle vessel
22 as a crew member?

23 A. No, no. Not that I know of.

24 MR. MCPHERSON: Lacks foundation.

25 Q. (By Mr. O'Kane) Did she ever work on the -- on

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1 the -- let me just give you a little foundation here.

2 What -- what -- describe the operation for me, if you
3 would, when -- how -- how does it work once you -- you
4 got the -- the passengers?

5 A. I guess the passengers would approach the truck
6 where she -- where she was sitting working out of a chair
7 there and anything, then say they want to ride the jet
8 skis or they had a reservation or they had an appointment
9 or whatever, and she would get them to fill out the
10 disclaimer form, the release, whatever you want to call
11 it, and I -- I was usually sitting there with her or Dana
12 or whoever was there at the time, or I used to do the
13 job, too, before they hired the girls. Get them to fill
14 out the equipment, then -- I mean the -- the form, and
15 they'd walk with me to the boat, or with her to the boat
16 and get them in the shuttle boat, and then we'd drive
17 out. Then they had a whole other form to fill out on the
18 platform, and then we would collect payment at the
19 platform before we even let the guest ride the jet skis,
20 and there would be an instructor there, he would -- you
21 know, he would finish up their paperwork or collect the
22 money or whatever and teach them how to ride jet skis,
23 and I would take off and head back for shore and pick up
24 more guests.

25 Q. How -- how long did it take for the shuttle to

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1 get from the pier to the platform?

2 A. Less than five minutes.

3 Q. Can you describe the platform for me?

4 A. It's like a catamaran barge. It's just a flat
5 top, two -- yeah, two hulls, and there's a cover on it,
6 there's a desk, and usually some gas cans hanging around
7 there, and a bunch of life jackets and -- and containers.

8 Q. During the time you worked with Aloha Jet Skis
9 and Miss Miller, did she ever work on the jet ski
10 platform when you were there?

11 A. Not when I was there.

12 Q. Does the -- did -- did you say that the -- the
13 jet -- platform worker gives the passengers some
14 instruction?

15 A. Yes. They're called an instructor. That's
16 their job title and --

17 Q. To be a jet ski instructor, does that require
18 some training?

19 A. No.

20 Q. Well, how do you know what to do?

21 A. I watched another instructor do it and then --
22 and then, you know, so okay, now I'm a jet ski
23 instructor, too. It's pretty much on the job training
24 but there's no -- nothing formal, there's no operations
25 manual or anything else like that. It's just you -- you

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1 just go through the safe operation of a -- of a jet ski.

2 Q. Okay.

3 A. Tell the people what to do, how -- how to
4 launch them and how we recover the jet ski and what to
5 do.

6 Q. What -- what percent of the time that you
7 worked with -- with Miss Miller did she work at the
8 truck?

9 A. 90 percent of the time.

10 Q. What did she do the other ten percent of the
11 time?

12 A. I guess walk back and forth from the -- where I
13 launched the boat to the truck.

14 Q. Did she -- during the time she -- you worked
15 with her, the three or four days you worked with her, did --
16 did you ever observe her working either aboard the
17 shuttle or out on the platform or someplace to do with
18 the ocean?

19 A. No. No. I mean I -- I saw her on the shuttle --
20 I mean not on the shuttle, because I took her out to the
21 platform I'm sure at least once or twice on the shuttle
22 where she could ride the jet skis or I could ride the jet
23 skis or, you know.

24 Q. What was the purpose of that, captain, in other
25 words --

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1 A. Recreation.

2 Q. Recreation?

3 A. Yeah.

4 Q. Was that part of your job description to do
5 that or --

6 A. I don't think it was -- I don't think so, but I
7 don't think it was against the rules for us to ride the
8 jet skis either so --

9 Q. It was just for fun?

10 A. Just for fun.

11 Q. And was that during your working hours?

12 A. Yes.

13 Q. Did you ever see Miss Miller -- did Miss Miller
14 in her job responsibilities load or unload vessels?

15 A. You mean put vessels on and off trailers or
16 loaded with passengers?

17 Q. Loaded with anything?

18 A. I don't recall.

19 Q. Did you ever -- does Miss Miller have any
20 repair responsibilities for the vessel?

21 A. No.

22 Q. That's all I have.

23 BY MR. MCPHERSON:

24 Q. Captain Watson, again, I'm Howard McPherson,
25 I'm Jeannette's attorney for the case. The launching

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1 procedure that you described in that slip -- excuse me,
 2 slippery ramp area --
 3 A. Yes.
 4 Q. Was that something you worked out yourself as
 5 the captain to do it that way?
 6 A. Yes. Me and that's -- that's the way I learned
 7 it from Pat, Shawn or whatever his name is, Pat, Patrick.
 8 I learned it from him.
 9 Q. Patrick Shand?
 10 A. Shand. There you go. I never knew his last
 11 name.
 12 Q. What -- what was -- what was his job?
 13 A. He was an instructor.
 14 Q. The -- the jet ski --
 15 A. Jet ski instructor.
 16 Q. Okay. So he would have been the fellow you
 17 worked with?
 18 A. Yeah. I worked with him one day a week. I
 19 worked with him on Fridays, and I worked with another guy
 20 named Mike on Saturdays.
 21 Q. Do you happen to remember Mike's last name?
 22 A. No.
 23 Q. Okay. But am I correct in understanding then
 24 that during a work shift when you worked there would be
 25 only one captain, yourself?

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1 A. Yes.
 2 Q. Okay. So the way of doing it to avoid stepping
 3 on the slippery part, that was something that you and
 4 Patrick worked out together then, am I right? Do I get
 5 that right?
 6 A. Well, I don't think we did it so much to avoid
 7 stepping on the slippery part as just it was easier than --
 8 it's the easiest way to launch a boat is have somebody up
 9 there in -- in the boat, and as soon as the boat hit the
 10 water start the engine and just back it off the trailer.
 11 It didn't have so much -- it wasn't to avoid stepping on
 12 the ramp or avoiding algae or anything like that, it was
 13 just easier for us to do.
 14 Q. Okay. And then somebody would be in the boat
 15 to -- to drive it once it was in the water?
 16 A. Yes. Well, that's -- yes.
 17 Q. Okay. So would that typically be yourself?
 18 A. Yes. It was whoever, whoever had driven the
 19 truck from the shop to the pier pretty much drove the
 20 truck, and then whoever was the passenger got out and
 21 drove the boat.
 22 Q. Okay.
 23 A. Off the trailer.
 24 Q. You didn't have to be the captain to drive the
 25 boat?

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1 A. No.
 2 Q. Not for that?
 3 A. No. You don't have to be a captain if there's --
 4 if there's no passengers or guests on board, you don't
 5 have to be a captain, have a captain's license.
 6 Q. Just need to know how to drive the boat though?
 7 A. Yes. That would be helpful.
 8 Q. Pardon me?
 9 A. That would be helpful, yes.
 10 Q. Did Jeannette Miller know how to drive the
 11 boat?
 12 A. I never saw her drive the boat.
 13 Q. You didn't teach her then?
 14 A. No.
 15 Q. Do you know if anybody else did?
 16 A. Not that I know of.
 17 Q. So this way of doing it, one guy in the truck,
 18 one guy in the boat, was -- was that instructed by the
 19 company or is that just something you guys worked out?
 20 A. That's something we worked out for ourselves.
 21 Q. The platform you described as a catamaran
 22 barge?
 23 A. Yes.
 24 Q. So it's -- it's got a flat deck space?
 25 A. Yes. Flat deck space and two -- I don't know,

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1 pontoons or hulls, and it's in between them, it's just
 2 open air.
 3 Q. If you wanted to tow it with something on it
 4 you could do that?
 5 A. Yes.
 6 Q. Jeannette was a good worker?
 7 A. Yes.
 8 Q. Honest person as far as you knew?
 9 A. As far as I know, and she helped me out one
 10 day. My wife needed somebody to watch the kids for half
 11 hour or so so she could run an errand, and -- and
 12 Jeannette said she would, and she heard -- heard me
 13 talking on the phone, and so she watched the kids there
 14 in the back of the truck on the pier for me as a favor.
 15 Q. Did you leave on good terms from the company as
 16 well?
 17 A. Me? I guess they weren't too happy I left, but
 18 I left on good terms, so yes.
 19 Q. Okay. Certainly you harbor no grudge against
 20 the company?
 21 A. No.
 22 Q. They were sorry to lose you is what you meant?
 23 A. Yes.
 24 Q. Did you say you drive dive boats, also?
 25 A. Yes.

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1 Q. Which dive boats do you drive?

2 A. There's the Hale Kai for Bottom Time. The job
3 I left jet skis for was the Lanikai up here at Waikoloa,
4 and I sometimes drive the Honu One for Kona Honu Sports.

5 Q. I have no further questions. Thank you very
6 much.

7 A. Sure.

8 BY MR. O'KANE:

9 Q. Just one other. If you said that you could tow
10 that, that platform out there, have you ever seen that
11 platform towed?

12 A. Only to the dry dock and back.

13 Q. Was there anything on it when they towed it to --
14 to dry -- to dry dock back and forth, any cargo or
15 anything?

16 A. No cargo, just the -- the desk and the
17 cabinets.

18 Q. The reason I ask that, I'll -- I'll represent
19 to you there was some testimony yesterday that that thing
20 was kind of top heavy and it was -- it would be almost
21 dangerous to turn around and tow it with anything on it.
22 Would you agree with that or not?

23 A. In heavy seas it would be dangerous, but I
24 think, yeah, just the normal Kona day, you can get it
25 back and forth through the harbor no problem.

Page 23

1 Q. That's all I have.

2 A. Okay.

3 MR. MCPHERSON: Nothing further.
4 Thanks very much, Captain Watson.

5 A. Great.

6 THE VIDEO SPECIALIST: The time is now
7 2:47 p.m., we're going off the record and this concludes
8 today's deposition.

9 (Deposition concluded at 2:47 p.m.)
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1 I, JEFFREY BRIAN WATSON,

2 hereby certify that I have read the foregoing typewritten
3 pages 1 through 23, inclusive, and corrections, if any,
4 were noted by me, and the same is now a true and correct
5 transcript of my testimony.

6 DATED: Honolulu, Hawaii, _____.

13 Signed before me this _____
14 day of _____, 2006.

20 Miller vs. Maui Ocean Activities, Inc., et al,
21 04-00441BMK, 6-27-06

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1 C E R T I F I C A T E

2 STATE OF HAWAII)
3) SS.

4 CITY AND COUNTY OF HONOLULU)

5 I, SHIRLEY L. KEYS, Notary Public, State of
6 Hawaii, do hereby certify:

7 That on June 27, 2006 at 2:27 p.m., appeared
8 before me Jeffrey Brian Watson, the witness whose
9 deposition is contained herein; that prior to being
10 examined he was by me duly sworn;

11 That the deposition was taken down by me in
12 machine shorthand and was thereafter reduced to
13 typewriting under my supervision; that the foregoing
14 represents to the best of my ability, a true and correct
15 transcript of the proceedings had in the foregoing
16 matter.

17 I further certify that I am not an attorney
18 for any of the parties hereto, nor in any way concerned
19 with the cause.

20 DATED this _____ day of _____, 2006,
21 in Honolulu, Hawaii.

23 SHIRLEY L. KEYS, CSR 383
Notary Public, State of Hawaii
My Commission Exp. May 19, 2007